

## Message Text

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ACTION IO-11

INFO OCT-01 ISO-00 AF-06 ARA-06 EA-07 EUR-12 NEA-10 FEA-01

SAL-01 ACDA-05 AGR-05 AID-05 CEA-01 CEQ-01 CG-00

CIAE-00 CIEP-01 OFA-01 COME-00 DLOS-04 DODE-00 DOTE-00

EB-07 EPA-01 ERDA-05 FMC-01 TRSE-00 H-02 INR-07

INT-05 JUSE-00 L-03 NSAE-00 NSC-05 NSF-01 OES-03

OMB-01 PA-01 PM-04 PRS-01 SP-02 SS-15 USIA-06 /148 W

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R 132159Z FEB 76

FM USMISSION USUN NY

TO SECSTATE WASHDC 5859

C O N F I D E N T I A L SECTION 1 OF 2 USUN 0565

E.O. 11652: GDS

TAGS: LOS, UN

SUBJ: LOS: ENGO GROUP INTERSESSIONAL MEETINGS (DEEP SEABEDS)

1. AFTER TWO AND A HALF DAYS OF DEBATE IN BRAZIL GROUP AND IN  
FULL ENGO GROUP, ENGO PUT FORWARD REVISED VERSION OF ARTICLE  
TWENTY-FIVE (ASSEMBLY) WHICH REFLECTS SUBSTANCE OF DISCUSSIONS:

BEGIN TEXT

QUOTE:

ARTICLE 25

1. THE ASSEMBLY SHALL CONSIST OF ALL THE MEMBERS OF THE  
AUTHORITY.

2. THE ASSEMBLY SHALL MEET IN REGULAR SESSION EVERY TWO  
YEARS AND IN SUCH SPECIAL SESSIONS AS MAY BE DETERMINED BY THE  
ASSEMBLY, OR CONVENED BY THE SECRETARY-GENERAL AT THE REQUEST  
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OF THE COUNCIL OR OF A MAJORITY OF THE MEMBERS OF THE AUTHORITY.

3. SESSIONS SHALL TAKE PLACE AT THE SEAT OF THE AUTHORITY UNLESS OTHERWISE DETERMINED BY THE ASSEMBLY. AT SUCH SESSIONS, EACH MEMBER SHALL HAVE ONE REPRESENTATIVE WHO MAY BE ACCOMPANIED BY ALTERNATES AND ADVISERS.
4. THE ASSEMBLY SHALL ELECT ITS PRESIDENT AND SUCH OTHER OFFICERS AS MAY BE REQUIRED AT THE BEGINNING OF EACH SESSION. THEY SHALL HOLD OFFICE UNTIL THE NEW PRESIDENT AND OTHER OFFICERS ARE ELECTED AT THE FOLLOWING SESSION.
5. EACH MEMBER OF THE ASSEMBLY SHALL HAVE ONE VOTE.
6. ALL DECISIONS ON QUESTIONS OF SUBSTANCE AND THE QUESTION WHETHER A QUESTION IS ONE OF SUBSTANCE OR PROCEDURE, SHALL BE MADE BY A TWO-THIRDS MAJORITY OF THE MEMBERS OF THE AUTHORITY. DECISIONS ON OTHER QUESTIONS SHALL BE MADE BY A MAJORITY OF THE MEMBERS PRESENT AND VOTING.
7. ANY DECISION OF THE ASSEMBLY ON AN IMPORTANT QUESTION OF SUBSTANCE SHALL COME INTO EFFECT 90 CALENDAR DAYS FOLLOWING THE SESSION IN WHICH IT WAS ADOPTED, PROVIDED THAT WITHIN THAT TIME PERIOD ONE-THIRD OF THE MEMBERS OF THE AUTHORITY PLUS ONE HAVE NOT GIVEN NOTIFICATION OF THEIR OBJECTION IN WRITING TO THE SECRETARY-GENERAL OF THE AUTHORITY. THIS PROCEDURE SHALL NOT APPLY TO DECISIONS ON IMPORTANT QUESTIONS OF SUBSTANCE WHICH HAVE BEEN TAKEN BY CONSENSUS.
8. WHEN A MATTER OF SUBSTANCE COMES UP FOR VOTING FOR THE FIRST TIME, THE PRESIDENT MAY, AND SHALL, IF REQUESTED BY AT LEAST 15 REPRESENTATIVES, DEFER THE QUESTION OF TAKING A VOTE ON SUCH MATTER FOR A PERIOD NOT EXCEEDING 5 CALENDAR DAYS. THE PROVISIONS OF THIS PARAGRAPH MAY BE APPLIED ONLY ONCE ON THE MATTER.
9. A MAJORITY OF THE MEMBERS OF THE ASSEMBLY SHALL CONSTITUTE A QUORUM.
10. UPON A REQUEST TO THE PRESIDENT SUPPORTED BY NOT LEST THAN ONE-FOURTH OF THE MEMBERS OF THE AUTHORITY, A VOTE ON ANY

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MATTER BEFORE THE ASSEMBLY SHALL BE DEFERRED PENDING REFERENCE TO THE TRIBUNAL FOR AN ADVISORY OPINION ON THE LEGALITY OF THE PROPOSED ACTION. VOTING ON SUCH MATTERS SHALL BE STAYED PENDING DELIVERY OF THE TRIBUNAL'S ADVISORY OPINION. IF THE ADVISORY OPINION IS NOT RECEIVED DURING THE SESSION IN WHICH IT IS REQUESTED, THE ASSEMBLY SHALL DECIDE WHEN IT WILL MEET TO VOTE UPON THE DERRED QUESTION. THE IDEAS FOR SPECIAL VOTING PROCEDURES FOR PARTICULAR

TYPES OF DECISIONS TO BE SPECIFIED IN THE CONVENTION  
MAY BE CONSIDERED UNDER THIS ARTICLE.

END TEXT

UNQUOTE.

2. DURING DISCUSSIONS OF COMPOSITION AND DECISION-MAKING PROCEDURES IN THE ASSEMBLY, LDC REPS MADE EFFORTS TO ACCOMMODATE CONCERNS EXPRESSED BY US AND OTHER INDUSTRIALIZED COUNTRIES THAT ARTICLES 25 AND 26 OF SNT CREATED AN ASSEMBLY WITH SWEEPING POWERS THAT WOULD BE EXERCISED BY GROUP OF 77 WITHOUT REGARD TO THE NATIONAL INTERESTS OF DC'S OR TO THE NEED TO ENCOURAGE PRIVATE INVESTMENT IN SEABED MINING. LDC'S APPARENTLY VIEW THE FRENCH ASSEMBLY PROPOSAL WHICH IS CURRENTLY SUPPORTED BY GROUP OF FIVE, EC-9 AND SOCIALIST COUNTRIES AS UNACCEPTABLE. THEY RECOGNIZE THE MOTIVATION FOR WIDESPREAD DEVELOPED COUNTRY SUPPORT FOR THE FRENCH PROPOSAL AND HAVE SOUGHT DURING THESE DISCUSSIONS TO MEET OUR CONCERNS.

3. AS A RESULT, SEVERAL PROTECTIVE MECHANISMS IN THE DECISION-MAKING PROCEDURE ARE INCORPORATED IN CHAIRMAN'S REVISED TEXT. THESE ARE:

(A) DECISIONS ON QUESTIONS OF SUBSTANCE WILL BE MADE BY A TWO-THIRDS MAJORITY OF THE MEMBERS OF THE AUTHORITY RATHER THAN OF MEMBERS PRESENT AND VOTING. NOTE: IN PRACTICAL TERMS THIS FEATURE MAY BE THE EQUIVALENT OF REQUIRING AT LEAST THREE-FOURTHS MAJORITY.

(B) IMPORTANT DECISIONS ON QUESTIONS OF SUBSTANCE WILL NOT COME INTO FORCE DURING A SUSPENSE PERIOD OF 90 DAYS FOLLOWING CONFIDENTIAL

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THE SESSION. DURING THAT PERIOD IF ONE-THIRD PLUS ONE OF THE MEMBERS REGISTER WRITTEN OBJECTION, THE DECISION WILL NOT COME INTO FORCE.

(C) PRIOR TO VOTING ON A QUESTION OF SUBSTANCE FIFTEEN MEMBERS MAY REQUEST A "COOLING OFF" PERIOD OF 5 DAYS. THIS PROVISION IS BASED ON THE LOS CONFERENCE RULES OF PROCEDURE.

4. US REP PROPOSED THAT ON CERTAIN MAJOR DECISIONS SUCH AS QUESTIONS RELATING TO ECONOMIC ASPECTS OF THE REGIME SPECIAL VOTING PROCEDURES WOULD APPLY, E.G. FRENCH COLLEGIAL SYSTEM OR WEIGHTED VOTING SIMILAR TO THAT USED IN EXISTING COMMODITY AGREEMENTS. LDC'S EXPRESSED CONCERN WITH ESTABLISHING SPECIAL VOTING PROCEDURES BUT CHAIRMAN ADDED NOTE TO TEXT OF ARTICLE 25 REVISION TO INDICATE THAT SUCH PROCEDURES MAY NEED TO BE

CONSIDERED AT A LATER TIME.

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INFO OCT-01 ISO-00 AF-06 ARA-06 EA-07 EUR-12 NEA-10 FEA-01

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OMB-01 PA-01 PM-04 PRS-01 SP-02 SS-15 USIA-06 /148 W

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TO SECSTATE WASHDC 5860

C O N F I D E N T I A L SECTION 2 OF 2 USUN 0565

5. ARTICLE TWENTY-SIX (POWERS AND FUNCTIONS OF THE ASSEMBLY)  
WAS FINAL ARTICLE DISCUSSED BY ENGO GROUP. FOLLOWING  
DETAILED DISCUSSIONS IN BRAZIL GROUP AND AFTER OVERCOMING  
OBJECTION BY KENYA DURING ENGO MEETING TO WEAKENING THE  
POLICY-MAKING ROLE OF THE ASSEMBLY, CHAIRMAN ENGO  
PRODUCED THE FOLLOWING REVISED TEXT:

BEGIN QUOTE

POWERS AND FUNCTIONS OF THE ASSEMBLY

ARTICLE 26

1. THE ASSEMBLY SHALL HAVE THE POWER TO LAY DOWN GENERAL  
GUIDELINES AS TO THE POLICIES TO BE PURSUED BY THE AUTHORITY  
ON ANY QUESTIONS OR MATTERS WITHIN THE COMPETENCE OF THE  
AUTHORITY BY ADOPTING RESOLUTIONS AND MAKING RECOMMENDATIONS.  
IN LAYING DOWN GUIDELINES WITH REGARD TO ANY SUCH QUESTIONS  
OR MATTERS NOT SPECIFICALLY ENTRUSTED TO A PARTICULAR

ORGAN OF THE AUTHORITY, THE ASSEMBLY SHALL INDICATE TO WHICH  
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ORGAN THE GUIDELINES ARE DIRECTED. IT MAY ALSO DISCUSS  
ANY QUESTIONS OR ANY MATTERS WITHIN THE SCOPE OF THIS  
CONVENTION AND MAKE RECOMMENDATIONS THEREON.

2. IN ADDITION, THE POWERS AND FUNCTIONS OF THE ASSEMBLY  
SHALL BE:

(I) ELECTION OF THE MEMBERS OF THE COUNCIL IN ACCORDANCE  
WITH ARTICLE 27;

(II) APPOINTMENT, UPON THE RECOMMENDATION OF THE COUNCIL,  
OF THE SECRETARY-GENERAL, AND OF THE MEMBERS OF THE TRIBUNAL  
AND THE GOVERNING BOARD OF THE ENTERPRISE;

(III) ESTABLISHMENT, AS APPROPRIATE, OF SUCH SUBSIDIARY  
ORGANS AS MAY BE FOUND NECESSARY FOR THE PERFORMANCE OF  
ITS FUNCTIONS IN ACCORDANCE WITH THE PROVISIONS OF  
THIS CONVENTION. IN THE COMPOSITION OF SUCH SUBSIDIARY  
ORGANS DUE ACCOUNT SHALL BE TAKEN OF THE PRINCIPLE OF  
EQUITABLE GEOGRAPHICAL DISTRIBUTION AND SPECIAL GROUPS,  
AND THE NEED FOR MEMBERS HIGHLY QUALIFIED AND COMPETENT  
IN THE RELEVANT TECHNICAL MATTERS DEALT WITH BY SUCH ORGANS;

(IV) ASSESSMENT OF THE CONTRIBUTIONS OF STATES PARTIES TO  
THE ADMINISTRATIVE BUDGET OF THE AUTHORITY IN ACCORDANCE  
WITH THE GENERAL ASSESSMENT SCALE USED BY THE UNITED NATIONS  
UNTIL THE AUTHORITY SHALL HAVE SUFFICIENT INCOME FOR  
MEETING ITS ADMINISTRATIVE EXPENSES;

(V) ADOPTION OF THE FINANCIAL REGULATIONS OF THE AUTHORITY  
UPON THE RECOMMENDATIONS OF THE COUNCIL;

(VI) APPROVAL OF THE BUDGET OF THE AUTHORITY ON ITS SUB-  
MISSION BY THE COUNCIL;

(VII) ADOPTION OF ITS RULES OF PROCEDURE;

(VIII) REQUEST AND CONSIDERATION OF SPECIAL REPORTS FROM  
THE COUNCIL AND FROM THE OTHER ORGANS OF THE AUTHORITY  
ON ANY MATTER WITHIN THE SCOPE OF THIS CONVENTION;

(IX) STUDIES AND RECOMMENDATIONS FOR THE PURPOSE OF  
PROMOTING INTERNATIONAL CO-OPERATION CONCERNING ACTIVITIES  
IN THE AREA AND ENCOURAGING THE PROGRESSIVE DEVELOPMENT  
OF INTERNATIONAL LAW RELATING THERETO AND ITS CODIFICATION;

(X) ADOPTION OF CRITERIA, RULES, REGULATIONS AND PROCEDURES  
FOR THE EQUITABLE SHARING AMONG STATES PARTIES OF FINANCIAL  
AND OTHER ECONOMIC BENEFITS DERIVED FROM ACTIVITIES IN THE  
AREA, TAKING INTO PARTICULAR CONSIDERATION THE INTERESTS  
AND THE NEEDS OF THE DEVELOPING COUNTRIES;

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(XI) CONSIDERATION OF PROBLEMS OF A GENERAL NATURE ARISING FOR STATES IN CONNECTION WITH ACTIVITIES IN THE AREA RESULTING FROM THEIR LAND-LOCKED OR OTHERWISE GEOGRAPHICALLY DISADVANTAGED LOCATION.

(XII) SUSPENSION OF MEMBERS PURSUANT TO ARTICLE 68;

(XIII) RECEIPT OF REPORTS FROM THE ENTERPRISE.

3. IN EXERCISING ITS POWERS AND FUNCTIONS, THE ASSEMBLY SHALL HAVE PARTICULAR REGARD TO ARTICLE 24.4.

END QUOTE.

6. DEL CONSIDERS THIS TEXT TO BE SIGNIFICANT IMPROVEMENT OVER SINGLE NEGOTIATING TEXT ARTICLE 26 BECAUSE IT CIRCUMSCRIBES PREVIOUSLY SWEEPING POWERS OF THE ASSEMBLY IN SEVERAL IMPORTANT ASPECTS:

(A) THE ASSEMBLY IS NO LONGER THE SUPREME POLICY MAKING ORGAN BUT INSTEAD HAS ONLY THE AUTHORITY TO QUOTE LAY DOWN GENERAL GUIDELINES AS TO POLICIES TO BE PURSUED END QUOTE. THE ROLE OF THE COUNCIL IS SOMEWHAT REINFORCED BY DELETION OF THE PROVISION THAT THE ASSEMBLY QUOTE ISSUES DIRECTIONS OF A GENERAL CHARACTER AS TO THE POLICY TO BE PURSUED BY THE COUNCIL END QUOTE.

(B) THE POWER OF THE ASSEMBLY TO LAY DOWN GENERAL GUIDELINES IS NOW SPECIFICALLY LIMITED TO MATTERS WITHIN THE COMPETENCE OF THE AUTHORITY.

(C) THE ASSEMBLY'S ABILITY TO ASSUME RESIDUAL POWERS NOT SPECIFICALLY ENTRUSTED TO ANY ORGAN IS NOW LIMITED TO ITS ABILITY TO LAY DOWN GENERAL GUIDELINES AND INDICATING TO WHICH ORGAN THE GUIDELINES ARE DIRECTED.

(D) THE LIST OF POWERS AND FUNCTIONS OF ASSEMBLY (ARTICLE 26, PARA 2) HAS NOW BEEN MADE EXHAUSTIVE.

(E) ARTICLE 26 (3) OBLIGES THE ASSEMBLY TO HAVE PARTICULAR REGARD TO THE SEPARATION OF POWERS AMONG THE ORGANS OF THE AUTHORITY PROVIDED FOR IN ARTICLE 24 (4).

7. ALL US AMENDMENTS TO THE DETAILED LIST OF POWERS AND CONFIDENTIAL

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FUNCTIONS WERE ACCEPTED VERBATIM OR IN SUBSTANCE.  
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## Message Attributes

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